

Message Text

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PAGE 01 GENEVA 11444 01 OF 02 022048Z

ACTION EB-08

INFO OCT-01 EUR-12 IO-13 ISO-00 STRE-00 FEA-01 AGRE-00

CEA-01 CIAE-00 COME-00 DODE-00 FRB-03 H-01 INR-07

INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01 CTME-00

AID-05 SS-15 STR-05 ITC-01 TRSE-00 USIA-06 PRS-01

SP-02 OMB-01 /101 W

-----036612 022115Z /64

P 021706Z DEC 77

FM USMISSION GENEVA

TO SECSTATE WASHDC PRIORITY 3672

INFO AMEMBASSY BRUSSELS

C O N F I D E N T I A L SECTION 01 OF 02 GENEVA 11444

USMTN USEEC

STR PASS ELECTRONICALLY FOR AMBASSADOR WOLFF

E.O. 11652: N/A

TAGS: MTN, ETRD

SUBJECT: MTN DEL INPUT ON GOVERNMENT PROCUREMENT
POLICY REVIEW

REF: (A) BRUSSELS 5400

1. SUMMARY: I HAVE BEEN REVIEWING THE OVERALL STATUS OF THE NEGOTIATIONS AND IT HAS COME TO MY ATTENTION THAT THE GOVERNMENT PROCUREMENT (GP) NEGOTIATIONS ARE QUICKLY APPROACHING THE SECOND STAGE IN WHICH IT WILL BE NECESSARY TO BEGIN CONSIDERATION OF COVERAGE. ACCORDINGLY, I BELIEVE THAT USG SHOULD INTERNALLY REVIEW ITS NEGOTIATING OBJECTIVES, PARTICULARLY IN THE AREA OF ENTITY COVERAGE. BELOW ARE OUR COMMENTS AND SUGGESTIONS FOR SUCH A REVIEW. END SUMMARY.

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PAGE 02 GENEVA 11444 01 OF 02 022048Z

2. WE SHOULD EXAMINE NOT ONLY U.S. OBJECTIVES IN GOVERNMENT PROCUREMENT, BUT ALSO THE BEST MEANS OF ACHIEVING THESE OBJECTIVES. THE PRIMARY U.S. OBJECTIVE SHOULD CONTINUE TO BE THE DEVELOPMENT OF A TIGHTLY WRITTEN CODE THAT HAS MAXIMUM COVERAGE. WE SHOULD NOW CONSIDER, HOWEVER, THE BEST MEANS OF MAXIMIZING U.S.

NEGOTIATING LEVERAGE WHILE AT THE SAME TIME, BEING SURE THAT WE PUT NO MORE "INTO THE POT" THAN OUR NEGOTIATING PARTNERS. EVEN IF OUR MAJOR NEGOTIATING PARTNERS WOULD AGREE TO COVERAGE OF ALL ENTITIES UNDER THEIR DIRECT CONTROL, WE SHOULD CONSIDER WHETHER THE U.S. WOULD RECEIVE A QUID PRO QUO BY USE OF SUCH A NORMATIVE DEFINITION. UNDER SUCH A DEFINITION, THE U.S. FEDERAL GOVERNMENT WOULD AUTOMATICALLY INCLUDE ALL ITS AGENCIES AND BE LEFT IN THE POSITION OF TRYING TO NEGOTIATE COVERAGE OF OTHER LESS CENTRALLY STRUCTURED GOVERNMENTS WITH FEW BARGAINING CHIPS LEFT ON THE U.S. SIDE OF THE TABLE. THAT IS TO SAY, ONCE WE HAVE PUT ALL OF U.S. FEDERAL ENTITIES ON THE TABLE, WE HAVE LITTLE LEFT TO ENCOURAGE THE FRENCH, FOR EXAMPLE, TO INCLUDE AIR FRANCE. OUR PRIMARY BARGAINING CHIPS ARE OUR FEDERAL AGENCIES AND WE SHOULD SEEK A NEGOTIATING APPROACH THAT MAXIMIZES THE VALUE OF THESE CHIPS. IF ONE ACCEPTS THE ABOVE REASONING, THE U.S. NEGOTIATING STRATEGY IN GOVERNMENT PROCUREMENT SHOULD BE TO SEEK A HIGH QUALITY CODE WITH MAXIMUM COVERAGE - MAXIMUM COVERAGE, HOWEVER, THAT TAKES STRICTLY INTO ACCOUNT HOW MUCH COVERAGE IS OFFERED BY OTHERS.

3. TO ACCOMPLISH THIS SCENARIO, THE USG, AT THE APPROPRIATE TIME, SHOULD MOVE FROM ITS POSITION OF A NORMATIVE DEFINITION OF SCOPE AND COVERAGE TO AN ENTITY-BY-CONFIDENTIAL

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PAGE 03 GENEVA 11444 01 OF 02 022048Z

ENTITY APPROACH. IN THE COVERAGE NEGOTIATIONS, WE ENVISAGE TABLING THOSE ENTITIES WE ARE WILLING TO INCLUDE IN A CODE AS OTHER COUNTRIES DO THE SAME. THE SEARCH THEN WOULD BE FOR A BALANCED COVERAGE PACKAGE THAT, HOPEFULLY, INCLUDES THOSE INDUSTRIES MOST IMPORTANT TO OUR ACCEPTANCE OF A GP CODE. THIS APPROACH ALLEVIATES THE NEED FOR EXCEPTION OF CERTAIN PRODUCTS AND ENTITIES (I.E., EVERYTHING NOT EXPLICITLY COVERED WOULD BE EXCEPTED). FURTHER, WE WOULD NOT RULE OUT THE POSSIBILITY OF PARTICULAR PRODUCT SECTOR NEGOTIATIONS WITHIN SPECIFIC ENTITIES. THIS WOULD BE DONE IN THE CONTEXT OF NEGOTIATIONS ON ENTITIES, BUT WITH EXCEPTIONS FOR CERTAIN PRODUCTS. THIS APPROACH COULD BE USED AS A FURTHER "FINE TUNING" OF U.S. GOVERNMENT PROCUREMENT CONCESSIONS. WE WOULD CAUTION, HOWEVER, THAT THIS COMPLEXITY WOULD BE RESORTED TO ONLY IF NECESSARY TO EXTRACT PARTICULAR CONCESSIONS FROM OUR NEGOTIATING PARTNERS.

4. WE ARE CONCERNED THAT WE WILL EVENTUALLY BE FACED WITH A CHOICE BETWEEN BROAD COVERAGE AND A LOOSE CODE, OR MORE LIMITED COVERAGE WITH A TIGHT CODE. WE WOULD OPT FOR THE LATTER. APART FROM TACTICAL CONCERNS, WE

BELIEVE IT WILL BE MORE DIFFICULT, IN THE FUTURE, TO
TIGHTEN THE OBLIGATIONS OF A CODE THAN TO EXPAND ITS
COVERAGE. FURTHER, WITH A TIGHTLY WORDED, LIMITED
COVERAGE CODE, WE COULD SEE HOW WELL IT WORKS BEFORE
FULLY COMMITTING U.S. PROCUREMENT PRACTICES. THIS
POSITION REQUIRES, HOWEVER, THAT THE NEGOTIATING PRO-
CEDURES ALLOW FOR A LIMITED APPLICATION OF THE CODE
TO U.S. ENTITIES UNDER "DIRECT CONTROL" OF THE CENTRAL
GOVERNMENT. IT IS WITH THESE ENTITIES THAT U.S. FLEXI-
BILITY LIES.

5. WITH REGARD TO WHICH ENTITIES THE USG SHOULD SEEK
TO INCLUDE IN A GP CODE, WE SHOULD RELY ON OUR ADVICE
PROCEDURES. IN THE FIRST INSTANCE, WE SHOULD NOT ASSUME,
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PAGE 04 GENEVA 11444 01 OF 02 022048Z

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PAGE 01 GENEVA 11444 02 OF 02 022050Z
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INFO OCT-01 EUR-12 IO-13 ISO-00 STRE-00 FEA-01 AGRE-00
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FM USMISSION GENEVA

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INFO AMEMBASSY BRUSSELS

C O N F I D E N T I A L SECTION 02 OF 02 GENEVA 11444

A PRIORI, THAT CERTAIN PRODUCT SECTORS WILL BE EXCLUDED
(I.E., OUR PRIMARY INITIAL CONCERN SHOULD BE TO INCLUDE
IN THE CODE'S COVERAGE THOSE INDUSTRIES MOST INTERESTED
IN A GP CODE). THE EC DIRECTIVE, FOR EXAMPLE, PROVIDES
FOR PHASING-IN COVERAGE OF DATA PROCESSING EQUIPMENT

BY JANUARY 1981. FURTHER, THE COMMISSION HAS RECEIVED A CLEAR MANDATE TO INCLUDE TELECOMMUNICATIONS EQUIPMENT (REFTEL). BOTH HAVE BEEN IDENTIFIED BY ISAC'S AS PRIME U.S. INTERESTS. THE TIMING FOR THESE INCLUSIONS CORRESPONDS FAVORABLY WITH MTN TIMING AND MAY BE INFLUENCED BY THE MTN.

6. COMMENT: MTN DEL VIEWS THE SUGGESTED NEGOTIATING APPROACH AS CONSISTENT WITH OUR OBJECTIVE OF MAXIMUM COVERAGE. WE, HOWEVER, FORESEE THE REALIZATION OF THE OBJECTIVE COMING IN SEVERAL STAGES. STAGE ONE WILL INCLUDE THE MAXIMUM BALANCED LIST THAT CAN BE AGREED FOR IMPLEMENTATION IN THE MTN TIMEFRAME. COUPLED WITH STAGE ONE WOULD BE AN UNDERTAKING IN THE CODE TO EXAMINE AND/OR NEGOTIATE BALANCED ADDITIONS TO THE CODE EVERY CONFIDENTIAL

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PAGE 02 GENEVA 11444 02 OF 02 022050Z

2-3 YEARS. WE SEE CERTAIN ADVANTAGES TO THIS APPROACH: (1) THE TIMING CONFORMS TO THE "PHASE-INS" OF THE EC DIRECTIVE WHICH WOULD MAKE ACCEPTANCE OF AN INTERNATIONAL GP CODE EASIER FOR THEM TO SWALLOW; (2) THE U.S. WOULD NOT NEED TO PLAY ALL ITS NEGOTIATING CHIPS IN STAGE ONE; AND (3) LEVERAGE RE THE CONDITIONALITY ELEMENT OF THE TARIFF PLAN COULD BE PROVIDED BY STAGED IMPLEMENTATION OF THE GP CODE. DRAFTED BY NEWKIRK. MCDONALD

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